



Dkt. 0763/74768-BAA-PCT-US/JPW/GJG/JRM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,710      Examiner: Schnizer, Richard A.

Filed : April 8, 2004      Art Unit: 1635

For : CONTROL OF GENE EXPRESSION

1185 Avenue of the Americas  
New York, New York 10036

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REVOCATION OF POWER OF ATTORNEY, APPOINTMENT OF NEW ATTORNEYS,  
AND NOTICE OF NEW CORRESPONDENCE ADDRESS

Commonwealth Scientific And Industrial Research Organisation ("CSIRO"), having a place of business at Limestone Avenue, Campbell, Australian Capital Territory 2601, Australia, the assignee of all rights and interests in the above-identified invention and patent application by virtue of a signed Assignment from State Of Queensland Through Its Department Of Primary Industries, a copy of which is attached hereto as Exhibit 1, and a signed Assignment from Benitec Australia Limited, a copy of which is attached hereto as Exhibit 2, with a copy of the Notice of Recordation of Assignment Document issued by the U.S. Patent and Trademark Office in connection with the subject invention and patent application attached hereto as Exhibit 3 indicating that the State Of Queensland Through Its Department Of Primary Industries and Benitec Australia Limited obtained rights and interests in the parent application of the subject invention and patent application by virtue of an assignment from the currently named inventors, Michael Wayne Graham and Robert Norman Rice, hereby revokes all powers of attorney previously granted and

Applicants : Michael Wayne Graham, Robert Norman Rice, Peter Michael Waterhouse and Ming-Bo Wang

Serial No. : 10/821,710

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Page 2 of 2 of Revocation Of Power Of Attorney, Appointment Of New Attorneys And Notice Of New Correspondence Address

appoints the following attorneys: John P. White (Reg. No. 28,678); Gary J. Gershik (Reg. No. 39,992); Christopher C. Dunham (Reg. No. 22,031); Norman H. Zivin (Reg. No. 25,385); William E. Pelton (Reg. No. 25,702); Robert D. Katz (Reg. No. 30,141); Peter J. Philips (Reg. No. 29,691); and Paul Teng (Reg. No. 40,837); and each of them, all c/o Cooper & Dunham LLP, 1185 Avenue of the Americas, New York, New York 10036 (Tel. (212) 278-0400), its attorneys, each with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please address all communications and direct all telephone calls regarding this application to:

JOHN P. WHITE, ESQ.  
COOPER & DUNHAM LLP  
(CUSTOMER NUMBER 23432)  
1185 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036  
TEL. (212) 278-0400

I am an official authorized to sign this Revocation Of Power Of Attorney, Appointment Of New Attorneys And Notice Of New Correspondence Address on behalf of CSIRO.

Commonwealth Industrial And Industrial Research Organisation

By: Robert C. de Feyter  
Robert C. de Feyter  
Intellectual Property Manager  
CSIRO Plant Industry

Date: 10 December 2007

# **EXHIBIT 1**

BLAKE DAWSON WALDRON  
P A T E N T   S E R V I C E S

# Deed of Assignment

**State of Queensland**  
through its Department of Primary Industries

**Commonwealth Scientific and Industrial Research Organisation**

Blake Dawson Waldron Patent Services  
Level 39, 101 Collins Street  
Melbourne VIC 3000  
Telephone: +61 3 9679 3065  
Fax: +61 3 9679 3111

**Ref: WJP IP CLN 1303 9625**

© Blake Dawson Waldron Patent Services 2003

Applicants : Michael Wayne Graham et al  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

Exhibit 1

## ASSIGNMENT OF APPLICATIONS AND PATENTS

DATE 8 December 2003

### PARTIES

**State of Queensland through its Department of Primary Industries, of Primary Industries Building, 80 Ann Street, Queensland (Assignor)**

**Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)**

### RECITALS

The Assignor assigns all of its rights and interests in the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

### OPERATIVE PROVISIONS

#### 1. DEFINITIONS

The following definitions apply in this document.

**Applications** means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them.

**Benitec Australia Limited, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland (Benitec Australia)**

**Patents** means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

#### 2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, receipt of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all its rights and interests in:

- (a) the Applications; and
- (b) the Patents.

#### 3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue jointly in the names of Benitec Australia Limited and the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or

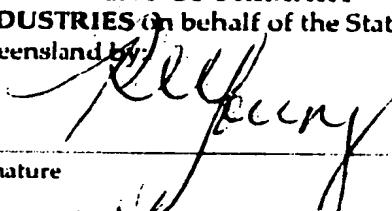
execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

**4. GOVERNING LAW**

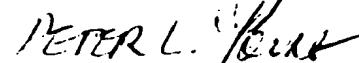
This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 8<sup>th</sup> day of December 2003

EXECUTED for and on behalf of the  
**DEPARTMENT OF PRIMARY  
 INDUSTRIES** on behalf of the State of  
 Queensland by:

  
 Signature

  
 Signature of witness

  
 PETER L. Scott

Name and position

Director of Biochemistry

Debra Davis  
 Name of witness

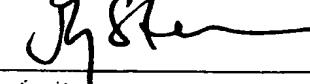
EXECUTED for and on behalf of the  
**COMMONWEALTH SCIENTIFIC AND  
 INDUSTRIAL RESEARCH  
 ORGANISATION** by:

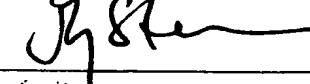
  
 Signature

  
 Signature of witness

M. BAGHAI, Exec Director  
 Name and position

BD: C

  
 Name of witness

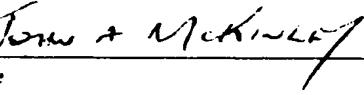
  
 J. STEELE

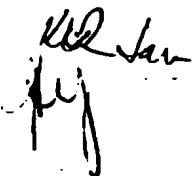
## AGREEMENT TO ASSIGNMENT

Benitec Australia Limited, ACN 080 299 645, of Suite 4, 242 Hawken Drive, St Lucia, Queensland hereby acknowledges its agreement to the assignment set out above.

SIGNED, SEALED AND AFFIRMED for and on behalf of **THE COMMON SEAL of BENITEC AUSTRALIA LIMITED**, the fixing of which was witnessed by:

  
Signature of director

  
Name

  
Signature of director

  
Signature of director/secretary

  
Name

**SCHEDULE**  
**APPLICATIONS AND PATENTS**

**Granted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100608.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.

Graham, M.W. and Rice, R.N. (2003) Genetic constructs for delaying or repressing the expression of a target gene. US 6,573,099.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

**Accepted Patents**

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

**Patent Applications**

Graham, M.W. and Rice, R.N. (US 09/997/905) Synthetic Genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (US 10/346,853) Synthetic genes and genetic constructs comprising same I.

Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU/99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU P0101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

Graham, M.W. and Rice, R.N. (JP P2000-537990) Control of gene expression.

Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MX 008631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

**Priority Documents**

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

# **EXHIBIT 2**

# Deed of Assignment

**Benitec Australia Limited**

**Commonwealth Scientific and Industrial Research Organisation**

Deed of Assignment dated 10th April 2004 between Benitec Australia Limited and Commonwealth Scientific and Industrial Research Organisation.

Applicants : Michael Wayne Graham et al  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

**Exhibit 2**

Deed of Assignment

DATE 21 August 2006

PARTIES

Benitec Australia Limited, ACN 080 299 645, of C/- Adsto International, Adsto House, 401 New Canterbury Road, P.O. Box 20, Dulwich Hill, NSW, Australia 2203 (Assignor)

Commonwealth Scientific and Industrial Research Organisation a body corporate established by the Commonwealth Science and Research Act 1949 and having its principal office at Limestone Avenue, Campbell in the Australian Capital Territory (Assignee)

RECITALS

The Assignor assigns all of its right, title and interest in and to the Applications and Patents set out in the attached Schedule to the Assignee, on the terms set out in this Deed of Assignment.

OPERATIVE PROVISIONS

1. DEFINITIONS

The following definitions apply in this document

**Applications** means the patent applications described in the Schedule and any divisional applications from any of them and any amendments, continuations or continuations-in-part of any of them, and any patent that issues from any of the patent applications.

**Patents** means the registered patents described in the Schedule and any divisional applications from any of them and any amendments, extensions, re-issues, or re-grants of any of them.

2. ASSIGNMENT

In consideration of the sum of \$1 and other good and valuable consideration now paid by the Assignee to the Assignor, the receipt and sufficiency of which the Assignor acknowledges, the Assignor, as beneficial owner, assigns to the Assignee all of its right, title and interest in and to:

- (a) the Applications; and
- (b) the Patents,

and to the extent that any of the Applications or the Patents have previously been assigned by the Assignor to the Assignee, the Assignor and the Assignee hereby confirm such previous assignment.

3. REGISTRATION

The Assignor undertakes at the expense of the Assignee to do all acts and execute all documents necessary to ensure that the Applications and the Patents will issue in the sole

3.

name of the Assignee. In the event of default by the Assignor to perform such acts or execute necessary documents, but only after the Assignor has been given a proper and reasonable opportunity to perform the acts or execute the documents, the Assignor appoint the nominee of the Assignee as the Assignor's attorney for that purpose.

4. GOVERNING LAW

This Deed is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed this 21<sup>st</sup> day of August 2006

EXECUTED for and on behalf of BENITEC  
AUSTRALIA LIMITED by:

  
Signature

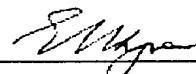
Peter Francis, Chairman  
Name and position

R. Aarons  
Signature of witness

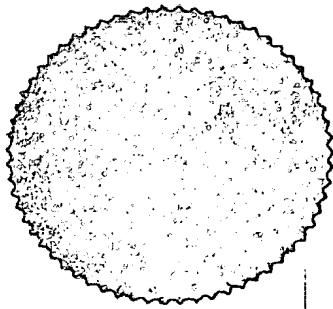
Richard Aarons  
Name of witness

Subscribed and sworn to before me this 21<sup>st</sup> day of August 2006

(Notarial Seal)

By   
Notary Public

EMILIOS JOHN KYROU  
PUBLIC NOTARY  
LEVEL 50, 600 BOURKE STREET  
MELBOURNE 3000 VICTORIA AUSTRALIA  
TEL: (613) 9643 4184 FAX: (613) 9643 5999  
EMAIL: emilios.kyrou@malleacons.com



EXECUTED for and on behalf of the  
COMMONWEALTH SCIENTIFIC AND  
INDUSTRIAL RESEARCH  
ORGANISATION by:

Dr Jack Steele  
Signature

Dr Jack Steele  
Chief of Staff  
CSIRO Business Services  
Name and position

Celia Murray  
Signature of witness

Celia Murray  
Name of witness

Subscribed and sworn to before me this 21<sup>st</sup> day of August 2006  
(Notarial Seal)



By \_\_\_\_\_

Notary Public:

GREGORY NORMAN HAMMOND  
NOTARY PUBLIC  
SYDNEY

## SCHEDULE

## APPLICATIONS AND PATENTS

Graham, M.W. and Rice, R.N. Control of gene expression. US 10/646,070.

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. ZA 2000/4507.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. AU 2001100508.

Graham, M.W. and Rice, R.N. (2002) Control of gene expression. SG 75542.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. GB 2353282.

Graham, M.W. and Rice, R.N. (2001) Control of gene expression. AU 743316.

Graham, M.W. and Rice, R.N. (2003) Control of gene expression. NZ 506648.

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Graham, M.W. and Rice, R.N. (WO 99/49029 (PCT/AU99/00195)) Control of gene expression.

Graham, M.W. and Rice, R.N. (BR PI9908967-0) Control of gene expression.

Graham, M.W. and Rice, R.N. (CA 2,323,726) Control of gene expression.

Graham, M.W. and Rice, R.N. (CN 99804255-2) Control of gene expression.

Graham, M.W. and Rice, R.N. (CZ PV2000-3346) Control of gene expression.

Graham, M.W. and Rice, R.N. (EP 99910039.9) Control of gene expression.

Graham, M.W. and Rice, R.N. (HK 01105904.3) Control of gene expression.

Graham, M.W. and Rice, R.N. (HU P0101225) Control of gene expression.

Graham, M.W. and Rice, R.N. (IN 2000/00169/DEL) Control of gene expression.

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Graham, M.W. and Rice, R.N. (KR 7010419/2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (MX 008631) Control of gene expression.

Graham, M.W. and Rice, R.N. (PL P.343064) Control of gene expression.

Graham, M.W. and Rice, R.N. (SK PV1372-2000) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 95225/01) Control of gene expression.

Graham, M.W. and Rice, R.N. (AU 35647/02) Control of gene expression.

Australian Patent Publication No. 2005209648.

Australian Patent Publication No. 2005211538.

Graham, M.W. and Rice, R.N. (NZ 525941) Control of gene expression.

New Zealand Patent Application No. 536674.

New Zealand Patent Application No. 547283

Graham, M.W. and Rice, R.N. (SG 200205122-5) Control of gene expression.

Graham, M.W. and Rice, R.N. (US 09/646,807) Control of gene expression.

US Patent Application No. 10/759,841.

US Patent Application No. 10/821,710.

US Patent Application No. 10/821,726.

Graham, M.W. (1998) Synthetic genes and genetic constructs comprising same I. AU PP2492/98.

Graham, M.W. and Rice, R.N. (1998) Gene expression I. AU PP2499/98.

Australian Patent Publication No. 2005202658

Brazil Patent Application No. PI9917642-4

Canada Patent Application No. 2513336

China Patent Application No. 200510083325.1

Europe Patent Application No. 05013010.3

Hungary Patent Application No. P0500631

India Patent Application No. 3413/DELNP/2005

Japan Patent Application No. 2005-223953

Mexico Patent Application No. PA/a/2005/006838

Poland Patent Application No. P.377017

Singapore Patent Application No. 200503921-9

South Korea Patent Application No. 7005341/2006

United States Patent Application No. 11/180,928 (Published as US20050250203)

United States Patent Application No. 11/218,999 (Published as US20060014715)

and any other patent or patent application claiming priority from PP2492 or PP2499, US Patent Application Numbers 09/100,812, or 09/100,813 and divisional applications from any of the patents and patent applications listed in this Schedule and any amendments, continuation or continuation-in-part applications, extensions, re-issues or re-grants of or to all or any of the patents and patent applications listed in this Schedule together with any renewal, division, continuation, continued prosecution application or continuation-in-part of any of such patents, certificates and applications, any and all patents or certificates of invention issuing thereon, and any and all reissues, re-examinations, extensions, divisions, renewals, substitutions, confirmations, registrations, re-validations, revisions, and additions of or to any of the foregoing, and any foreign counterparts of any of the foregoing, but with the sole exception of US Patent Number 6,573,099.

# **EXHIBIT 3**



PTAB

JUNE 24, 2003

MORRISON & FOERSTER LLP  
MICHAEL R. WARD  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

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UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 06/23/2003

REEL/FRAME: 013753/0409

NUMBER OF PAGES: 3

BRIEF: CORRECTIVE ASSIGNMENT TO CORRECT THE FIRST ASSIGNEE'S ADDRESS, PREVIOUSLY RECORDED AT REEL 011352 FRAME 0325.

ASSIGNOR:  
GRAHAM, MICHAEL WAYNE

DOC DATE: 10/19/2000

ASSIGNOR:  
RICE, ROBERT NORMAN

DOC DATE: 10/19/2000

ASSIGNEE:  
BENITEC AUSTRALIA LIMITED  
P.O. BOX 4193  
ST. LUCIA SOUTH, AUSTRALIA QLD 4067

ASSIGNEE:  
STATE OF QUEENSLAND THROUGH ITS  
DEPARTMENT OF PRIMARY INDUSTRIES  
80 ANN STREET, BRISBANE  
QUEENSLAND, AUSTRALIA 4000

SERIAL NUMBER: 09646807  
PATENT NUMBER:

FILING DATE: 12/05/2000  
ISSUE DATE:

Applicants : Michael Wayne Graham et al.  
U.S. Serial No. : 10/821,710  
Filed : April 8, 2004

OPW/ASSIGNMENTS

01/24/03 16:42 PAGE 013 11284400

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KIMBERLY WHITE, EXAMINER  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS